

REMARKS/ARGUMENTS

Claims 1-4, 6-13 and 15-18 are currently pending in this application. Reconsideration and further examination are respectfully requested.

Claim Rejections – 35 U.S.C. § 103

Claims 1, 6, 8-10 and 15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Choi et al. (U.S. Pat. No. 6,757,537), Saints et al. (U.S. Pat. No. 5,872,775), Rhoads (U.S. Pat. No. 6,278,781) in view of LaRosa (U.S. Pat. No. 6,628,965). Claims 7 and 16-18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Choi, Saints, Rhoads, LaRosa in view of Moon et al. (U.S. Pat. No. 6,643,272). To establish a prima facie case of obviousness, certain criteria must be met. One such criterion requires the prior art reference or references, when combined, to teach or suggest all the claim limitations. With the above requirements in mind, Applicants present the following arguments.

With respect to independent claim 1, Applicants respectfully submit that Choi, Saints, Rhoads, LaRosa and Moon, solely and in combination, fail to teach or suggest at least one claim limitation, for example, the limitation regarding “forming a message carrying ... a timing of the arrival of the subpackets.” The timing of the arrival of subpackets is the periodic intervals at which transmissions are scheduled to arrive. This allows the target destination to be on notice that future transmissions will arrive at specific times. Support for this claim amendment can be found in paragraph [0037].

None of these references disclose that the message carries a timing of the arrival of the subpackets. Therefore, Applicants believe that the claims amendment overcomes the rejections under 35 U.S.C. § 103.

In addition, independent claim 1 recites, in part, wherein (1) determining an energy value includes locating the energy value in a look-up table and selecting an index value associated with the energy value, and (2) forming a message carrying an indicator of the energy value includes forming a message including the index value. On page 7 of the office action, the Examiner states Rhoads discloses that when the telephone is operated it generates an index for these stored messages. Applicants' believe that one of skill in the art would not combine Rhodes with the other art of record. Furthermore, even if Rhodes is combined with the other art of record, Applicants' claimed invention is not disclosed by the combination.

Rhodes discloses methods and systems for reducing theft of wireless telephony services. *See abstract*. In particular, Rhodes discloses coding a message to determine whether the message is received correctly. *See col. 12, paragraphs 2-3*. Rhodes is directed to identifying whether a call is fraudulent. *See col. 2*. By contrast, the claims are directed to improving the performance of a decoder using energy values. Rhodes does not mention anything about energy values or using energy values to improve the performance of decoders.

Furthermore, Rhodes discloses that the telephone randomly generates a number between 1 and 256, which serves as an index to these stored messages. *See col. 12, lns. 8-10*. Claim 1 recites "selecting an index value associated with the energy value." Hence, as disclosed by Rhodes, a random generation of the index value would not work if combined with the other references of record to produce the claimed invention.

For at least the reasons stated above, Applicants respectfully request that the rejections of Claim 1 under 35 U.S.C. § 103(a) be withdrawn. Claim 1 is novel, non-obvious and patentably

distinguishable over Choi, Saints, Rhoads, LaRosa and Moon, solely and in combination, and should be allowable.

Independent claims 8, 9, 10, 17 and 18 include similar features as claim 1 and therefore should also be allowable for similar reasons.

Regarding the dependent claims, they depend from one of the independent claims 1 and 10, which are believed to be patentable, and thus these dependent claims should also be novel, non-obvious and patentably distinguishable over Choi, Saints, Rhoads, LaRosa and Moon, solely and in combination.

CONCLUSION

In light of the amendments and remarks contained herein, Applicants submit that the application is in condition for allowance, for which early action is requested.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

Dated July 15, 2009

By: James K. O'Hare
James K. O'Hare, Reg. No. 56,574
(858) 651-4186

QUALCOMM Incorporated
5775 Morehouse Drive
San Diego, California 92121
Telephone: (858) 658-5787
Facsimile: (858) 658-2502